



ZONING BOARD OF APPEALS
RICHARD D. CARNEY MUNICIPAL OFFICE BUILDING
100 MAPLE AVENUE
SHREWSBURY, MASSACHUSETTS 01545-5398

June 4, 2003

PUBLIC HEARING: Thomas and Joyce Brindisi, 97 Francis Ave., Shrewsbury, MA.

Appeal withdrawn.

PUBLIC HEARING: Judith Johnson, 79 Main Blvd., Shrewsbury, MA.

PURPOSE: To hear the appeal of Judith Johnson, 79 Main Blvd., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Residence B-1 District, to allow the construction of an addition 35 ft. from the rear lot line of property located at 79 Main Blvd. The subject premises is described on the Shrewsbury Assessor's Tax Plate 29 as Plot 201.

PRESENT: Paul M. George, Chairman Pro-tem, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen, David A. L'Ecuyer and Ronald S. Alarie, Building Inspector.

Mr. George opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on May 20, 2003 and May 27, 2003.

Mr. George: Please identify yourself for the audio record.

Mrs. Johnson: Hi, I'm Judy Johnson of 79 Main Boulevard in Shrewsbury.

Mr. George: You can make your presentation.

Mrs. Johnson: Well, we're thinking of putting on a sunroom, a Better Living Sunroom. We did go over the 40 ft. rear amount that, I guess, we need to have. It's going to be 14 ft. x 18 ft., the 18 ft. going the length of the house and the 14 ft. will be going away from the house. The deck will be torn down and they're going to construct a new deck with subsequently sturdier underpinnings to hold up the deck. That's about all that I have. I applied and went upstairs to get a map and plot plan and left everything with the Town Clerk's office. I don't know what else I need to do.

Mr. George: Do you have any drawings or anything besides what we have?

Mrs. Johnson: That's all that I have and what I got upstairs in the Building Department.

Mr. George: Okay. I'm just going to pass this around.

Mrs. Johnson: Okay.

Mr. Gordon: Is this going to be the same size as the porch that's there now?

Mrs. Johnson: No, that's only 10 ft. x 12 ft. That's a deck. This sunroom will just be on top of a new structure that they're going to build

Mr. Gordon: That's going to be 16 ft. x 11 ft.?

Mrs. Johnson: It will be 14 ft. away from the house and 18 ft. along the length of the house.

Mr. Gordon: This is going to be a 3-season room?

Mrs. Johnson: Yes.

Mr. George: You're not going to have any type of a foundation?

Mrs. Johnson: No, it will just be like a deck open on the bottom.

Mr. George: Do any board members have any questions? Is there anybody in attendance this evening that wants to comment on this petition?

Mrs. Johnson: I believe that the letters to the abutters have been sent out. I haven't heard anybody say anything to me. I don't know, are they supposed to appear tonight if they have a complaint?

Mr. George: Yes, they should be here if they have any objections to it. I don't see anyone. So, we'll take it under advisement and notify you of our decision.

Decision

On June 4, 2003, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Judith Johnson, 79 Main Blvd., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Residence B-1 District, to allow the construction of an addition 35 ft. from the rear lot line of property located at 79 Main Blvd.

Upon review of this appeal, the board noted that the subject property is nonconforming having just less 78 ft. of frontage and only 7,800 sq. ft. of land area. They found that, due to this configuration, there is virtually no room upon the site to expand the existing residence in compliance with the minimum applicable setback requirements. It was their opinion that, in this instance, the literal application of those requirements would impose a substantial hardship and that affording Ms. Johnson the requested relief would not seriously depart from either the intent or the purpose of the bylaw. They found that the reduction of the minimum rear yard requirement by less than 5 ft. would not impact the welfare of either the general public or area residents and, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes
Mr. L'Ecuyer	Yes

PUBLIC HEARING: Gary and Andrea Granito, 3 Blackthorn Road, Shrewsbury, MA.

PURPOSE: To hear the appeal of Gary and Andrea Granito, 3 Blackthorn Road, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Rural A District, to allow the construction of an addition 42 ft. from the rear lot line of property located at 3 Blackthorn Road. The subject premises is described on the Shrewsbury Assessor's Tax Plate 12 as Plot 5-24.

PRESENT: Paul M. George, Chairman Pro-tem, Melvin P. Gordon, Bridget M. Murphy, Ronald I Rosen, David A. L'Ecuyer and Ronald S. Alarie, Building Inspector.

Mr. George opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on May 20, 2003 and May 27, 2003.

Mr. George: Just state your name for the record please.

Mrs. Granito: I'm Andrea Granito.

Mr. Granito: I'm Gary Granito.

Mr. George: Please make your presentation.

Mrs. Granito: Over the last couple of years, my husband and I have been contemplating some enhancements to our house. The ones we would like to move forward on are building a detached garage, replacing an existing deck and also building a screened-in porch. Our goal has always been to stay within the zoning regulations. We've changed many of our initial ideas because of that, but the one that we cannot seem to find an alternative solution for is the screened-in porch. The shape of our property is such that, in the back yard, the 50 ft. offset comes within 10 ft. of our house. It really doesn't give us enough space to build an adequate size screened-in porch. That's why we're here tonight, to request a variance of 7 ft. into the offset so that we can build a porch.

The reason why we would like to build a porch is so that we can truly enjoy our back yard. Right now, in the warmer weather, we like to eat and relax outside. But, because of the many mosquitoes, we really can't do that. Whenever we have get-togethers and barbeques, people always tend to migrate inside because the mosquitoes are such a nuisance. Our back yard is pretty much surrounded by trees and woods. Most people wouldn't be able to see the new porch at all. I've got a couple of pictures here so that you have a better idea of what our yard looks like. In the rear picture, where the fireplace is, that is where we would like to put the porch. In the front, the angle is from the street looking into the back yard. You may be able to see it from there if we were to put it there.

We feel that the enhancements we would like to make to our house really wouldn't be a detriment to our neighbors. I think it would probably increase our property value and, in the long run, be a benefit to them. We've spoken to most of our immediate neighbors and told them of our plans. They didn't seem to have a problem with what we wanted to do.

We do have actual design plans, but, unfortunately, they're stuck in a huge accident on Route 3 with the contractor. So, what you're seeing for pictures is what we've sketched previously. The sizing is pretty much what we want to do. I'm sorry about that. We really did plan on having the designs here for you to see. If you have any questions, we will be glad to answer them for you.

Mr. George: Do any board members have any questions?

Mr. Gordon: The deck is there now, right?

Mrs. Granito: Yes. Actually, it hasn't been taken care of. It's warped and splintery. So, we want to replace that.

Mr. Gordon: But, you're replacing it with the same size?

Mrs. Granito: No, it's going to be a little bit different in configuration.

Mr. Granito: It's basically the same size. It's a slightly different shape with the bow out there. But, basically, it's the same location and, basically, the same size.

Mrs. Granito: Also, there is a door where the fireplace is that leads out onto the deck. That's what we would like to use for the screened-in porch.

Mr. George: So, that would be your access to the screened-in porch?

Mrs. Granito: Yes. The door's already there.

Mr. Gordon: With a step down?

Mrs. Granito: Well, right now the deck doesn't have a step down.

Mr. Gordon: Well, it says "step down."

Mr. Granito: There will be a step down, yes.

Mrs. Granito: Yes, it will be a step down.

Mr. Granito: Right now, it's not code.

Mr. George: Is that the door next to the chimney?

Mrs. Granito: Yes.

Mr. Granito: Yes.

Mr. Gordon: Ron, what is the back yard for Residential RA in Northboro? Do you know it?

Mr. Alarie: In Northboro? No, I can't answer that.

Mr. Granito: They do have a 2 acre minimum building on it.

Mrs. Granito: The land in Northboro is an orchard. It's all woods.

Mr. Gordon: Right now?

Mrs. Granito: Yes.

Mr. Granito: That's true.

Mrs. Granito: Also, I would like to mention that my neighbor up the hill from me is actually zoned "Residential A." If the zoning line were just one lot down, we really wouldn't have to be here.

Mr. L'Ecuyer: I just have a quick question. How much farther out into your yard is the addition going to go beyond the existing deck? How much deeper will it go into the yard?

Mr. Granito: About 4 or 5 ft. additionally.

Mrs. Granito: It doesn't even come to where the place that is in the picture. If you look at the picture, it wouldn't even come that far at all.

Mr. George: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

The decision of the board is on the following page.

Decision

On June 4, 2003, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Gary and Andrea Granito, 3 Blackthorn Road, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Rural A District, to allow the construction of an addition 42 ft. from the rear lot line of property located at 3 Blackthorn Road.

In reviewing the appellants' proposal to construct a screened-in porch to the rear of their home, the board noted that, due to the configuration of their lot, the literal application of the minimum terms of the Zoning Bylaws severely restricts the buildable envelope of this property. They also noted that the rear lot line of this parcel coincides with the town boundary line separating Shrewsbury and Northboro and that the abutting area consists of a large, vacant wooded tract of land. It was their opinion that the reduction of the minimum rear yard setback requirement by 7 ft. under such circumstances would not materially depart from the intent of the bylaws or negatively affect the welfare of either the general public or of area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes
Mr. L'Ecuyer	Yes

PUBLIC HEARING: Karen I Dyer, 328 Maple Ave., Shrewsbury, MA.

PURPOSE: To hear the appeal of Karen I. Dyer, P. O. Box 532, Auburn, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Area Requirement, Residence B-2 District, to allow the division of property located at 328 Maple Ave. into two lots, each having less than 12,500 sq. ft. of land area. The subject premises is described on the Shrewsbury Assessor's Tax Plate 32 as Plots 367 and 368.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I Rosen and Ronald S. Alarie, Building Inspector.

Mr. George opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on May 20, 2003 and May 27, 2003.

Mr. George: State your name for the record please.

Ms. Dyer: Karen Dyer.

Mr. Lemoine: Jeffrey Lemoine. I would like to start, actually, by saying that it's only 1 nonconforming lot, which would be the one that actually has the house on it now. That lot is roughly 6,000 sq. ft. The other lot is at a little over 15,000 sq. ft. What we would like to do is make that one 12,500 sq. ft. It has 106 ft. of frontage. We want to take part of the frontage from that one and put it on the other one to conform to the bylaw as far as the frontage is concerned. Her aunt, who is the one who owns the property, is short a few feet of actual frontage. We'll take it from Lot B. We'll call lot B the empty lot. We'll take frontage from there to make at least the frontage of hers conform. Lot B will have 12,500 sq. ft. and it will have 103 ft. or 104 ft. of frontage, which is sufficient. The rest of the requirements are there.

Since her aunt has owned the land, they were of the understanding that Lot B could be a buildable lot. Her uncle died a few years ago. Before he died, had she decided to build at that time, she wouldn't have needed a variance because there would have been 2 names on it. Now that he's gone, it's under 1 ownership, which is her aunt. So, now we need to have a variance for the 1 nonconforming lot, which I've said, it's been a small lot. We're going to actually make it larger and still make the other one conform. They have no children. They couldn't have children. Karen's her child, per-se. She's her niece. But, it's time for her to build and they were always figuring that she could build right there and kind of take care of her at the same time and take care of her property. Her

property, if you've been down to view it, is going down hill because there is nobody to take care of it. I don't live close enough to be there.

With the variance, it means that we can build a nice little Ranch, nothing that would be outrageous or anything like that, that will fit into the neighborhood and she will be able to take care of her property at the same time and take her to the doctors and whatever. It will give Karen the opportunity to build a house in the Town of Shrewsbury. It will add taxes and we don't have any children. Max is grown, so it isn't going to tax the school at all, being in the school or anything like that. It just adds taxes.

We didn't get blueprints because we didn't want to go to all of that expense and not have any idea if we could build on that lot. It costs a lot of money. I have a picture of basically what we want to put up there. It's going to be a simple Ranch. Like I said, it's not something that's going to stick out from the rest of the neighborhood.

Mr. George: Ron, is 368 already an existing lot?

Mr. Alarie: Both are defined as separate lots on our tax maps, but the problem is that they're held in common ownership. Since one is undersized, they have to be merged for zoning purposes. They're defined, or described, separately but held in the same title.

Ms. Murphy: So, they've merged?

Mr. Alarie: Yes.

Ms. Murphy: What's the square footage of the lot that you require the variance for, the remainder lot?

Mr. Lemoine: The remainder lot; the one that has the house existing?

Ms. Murphy: Yes.

Mr. Lemoine: That was originally about 6,000 sq. ft.

Ms. Murphy: No, what is it going to be?

Mr. Lemoine: It's going to be 7 or 7,800 or almost 8,000 sq. ft. It was only about 6. I can't be exact. We're going to take and add 2,500 sq. ft. to it. It will be 2,500 sq. ft. bigger than it is now. It's actually only 5,700 or 5,800 sq. ft. now.

Ms. Murphy: So, it's about a 4,000 sq. ft. variance that you're looking for?

Mr. Lemoine: Roughly, yes. But it's a house that's been there for 40 or 50 years on that lot all along. We're going to add 2,500 extra feet to it to make it that much bigger than what it has always been. But, it's deemed as 2 separate ones. We're going to make it a little bit larger and give it the extra footage. We're shy a couple feet of footage but that was all from days of old. Like I said, until her uncle died, it was a separate lot. If she had made this decision a few years ago, we wouldn't even have had to have the variance at all.

Ms. Murphy: Who owned the lot separately?

Mr. Lemoine: Her and her uncle, her uncle and her aunt. They both had it.

Ms. Dyer: She's always had it. She bought it that way.

Ms. Murphy: As husband and wife?

Mr. Lemoine: Yes. And he just died a few years ago. So, it would have been separate ownerships and they wouldn't have needed a variance.

Ms. Dyer: She originally paid taxes on 2 lots for years and years and years. Then they rezoned it and then she paid taxes on it as being 1 lot at one point in time.

Mr. Lemoine: But, because everything went into her name when he died, that changed the situation. Had he still been alive, we would be able to build there without a variance because this other lot is actually big enough. Now he's gone.

Mr. Gordon: Have you considered, this is in a Residence B-2 zone, a duplex?

Ms. Dyer: The problem is that, because I'm her niece, she has the estate with me, my 2 sisters and another cousin. So, there's a problem with the estate being tied up.

Mr. Gordon: Doesn't the same problem exist whether it's a 1 family house or a 2 family house?

Mr. Lemoine: No. Well, we weren't looking for any kind of an income or any thing like doing a duplex.

Mr. Gordon: There wouldn't be any income because what you're saying is you're going to keep the existing house for someone and the new house for you, or vice versa. But, a duplex solves all of those things and it doesn't require a variance.

Mr. Lemoine: Oh, you're talking about tearing down the other house.

Mr. Gordon: Or, building onto the side of it.

Ms. Dyer: I need to keep it separate.

Mr. Lemoine: Her aunt likes where she. She's been there for many years. We thought about it. She's pretty much set in her ways as far as living in her own house.

Ms. Murphy: Your aunt owns the property right now?

Mr. Lemoine: Yes.

Ms. Dyer: She owns the 2 lots.

Ms. Murphy: So, you don't have an ownership interest in this, but you're here for a variance?

Ms. Dyer: Just on her estate.

Mr. Lemoine: We will. She's going to sell us the property if we're able to build. It's just a matter of formalities as far as us owning the land. But, it's the same as getting the blueprints and all. We don't want to go through the expense of having it surveyed because, if we buy it, we have to have it surveyed and everything and, you know, change the line. If we go through all of that and we can't build, we would be spending thousands of dollars for no reason. This is kind of like our first step to find out if we're able to build and she'll sell us the property and we'll have it deeded and surveyed. We'll put the extra footage over to that property, give as much as we can to that particular property and put the frontage that makes it conform at least out front. Water and sewer is already there. Then the other lot, like I said, always has had plenty of space. It's over 15,000 sq. ft.

Mr. Gordon: What would you describe as the hardship for us?

Mr. Lemoine: Well, they were always under the understanding that they could build there. They were always going to give it to one of the nieces because they couldn't have their own children. Now the time actually comes and they can't do it. She can't do it. The hardship is that, for all of these years, they were of the understanding that they could put a house over there and that one of their nieces or siblings could put a house there and now it's not the same. Like you said, they paid taxes all of these years on 2 lots. Now, it won't happen.

Mr. Alarie: They were separate titles? One was owned jointly and one solely by the husband or wife?

Mr. Salerno: That would still be common ownership?

Mr. Alarie: No, if the lots existed separately and they qualified for the grandfathered provisions under the statute, as long as they had the 50 ft. of frontage and 5,000 sq. ft. of land, then it would be buildable. I'm not sure as to the sequence of ownership. If the husband perhaps owned 1 and the house was owned jointly then, after his passing, they would merge. Prior to that, I believe it would have been buildable.

Mr. Salerno: It sounds as though they were held tenants by the entirety to me.

Mr. Lemoine: Excuse me?

Mr. Salerno: It sounds like it was tenants by the entirety to me. If the husband passed away, it automatically transfers to the wife.

Mr. Lemoine: It automatically goes to her? I not quite sure myself. I never saw any of the deeds.

Mr. Salerno: I'm not quite sure your assumption that it would have been buildable is correct. Again, with the time line, I'm not sure where that is today. I know what everybody's intentions may be, but I just don't know where on the time line that fits.

Mr. Gordon: Mr. Salerno, I don't know if the proponents are aware that, if we turn them down, they can't come back for 2 years. However, if we allowed them to withdraw and they went back to their family and worked out their family problems, they might have the opportunity to come back and do some form of something.

Mr. Lemoine: I could withdraw without prejudice?

Mr. Gordon: You could appeal to the board.

Mr. Salerno: Yes, I don't even know what the family issues are.

Mr. Gordon: I think they should be resolved before they come to us.

Mr. Salerno: Yes, but I'm not even sure, Mr. Gordon, if there's a family issue that is material to this appeal. This is all 1 lot that's merged and consolidated in 1 lot. I don't think who might come to own this is a concern of ours.

Mr. Gordon: I don't know; they might want to do something else instead, put a duplex there. But, they could put a duplex there even if we turned them down.

Mr. Salerno: Right.

Mr. George: Right.

Mr. Lemoine: So, we could even just, like he was saying earlier, add onto the existing house?

Mr. Gordon: The building inspector can tell you if you can do that.

Mr. Alarie: If you conform to the setbacks, yes. I'm not sure how close it is to the rear line. If there's a nonconforming setback and you needed to utilize that, then you would have to reappear before the board to seek a special permit.

Mr. Gordon: On the existing house?

Mr. Alarie: Yes.

Mr. Gordon: But, that would be a special permit, that would not be a variance?

Mr. Alarie: That's correct.

Mr. George: Is there anybody in attendance this evening that wants to comment on this petition? Please state your name for the record.

Ms. Duncan: Marilyn Duncan. I live at 15 Beach Road, which is about 2 lots away from this property. I'm surprised that I'm the only one from the neighborhood here. I expected to see some of the other people because the neighbors that I have spoken to are opposed to this. We feel that a duplex would possibly be a better choice for changing this property. To divide it and add another house, that would not be the best choice for the neighborhood.

Mr. George: Thank you.

Mr. Alarie: Mr. George, I think there is at least 1 other letter in the file from 1 of the abutters.

Mr. George: It's from Charles and Anne Marie Simon and they state that "We are not in favor of this division of property located at 328 Maple Ave. We further feel that the town should continue to keep the requirements set down and to maintain the standards that Shrewsbury has worked hard for to make it a place that residents can feel proud of."

Mr. George: Does anyone have any more questions on this? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On June 4, 2003 the Zoning Board of Appeals unanimously voted to deny the appeal of Karen I. Dyer, P. O. Box 532, Auburn, MA, for variances to the Town of

Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Area Requirement, Residence B-2 District, to allow the division of property located at 328 Maple Ave. into two lots, each having less than 12,500 sq. ft. of land area.

The subject premises consists of 2 contiguous lots under common ownership, one of which is improved with a single family home occupying a lot that contains less than 6,000 sq. ft. of land and having 98 ft. of frontage. The adjoining lot, which is vacant, conforms to the current minimum frontage requirements for this vicinity of Maple Ave. Ms. Dyer proposes to reconfigure the property by adding 3 ft. of frontage and approximately 2,500 sq. ft. of land to the existing developed parcel and to construct a single family home upon the vacant lot.

Upon review of this appeal, the board noted that this property, in its entirety, now conforms to the current zoning requirements with respect to area and frontage and found that there were no conditions relating to its physical features or the existing dwelling situated thereon that would warrant the granting of the relief requested. It was their opinion that its division resulting in the creation of a lot that contains less than 60% of the minimum lot area would substantially depart from both the intent and the purpose of the Zoning Bylaw in establishing such minimum standards. Finding that the request did not satisfy the statutory requirements for the granting of the variance requested, they unanimously voted to deny the appeal.

Vote

Mr. Salerno	No
Mr. George	No
Mr. Gordon	No
Ms. Murphy	No
Mr. Rosen	No

PUBLIC HEARING: Mary C. Paldino and Robert J. Ginisi, 10 Wendell Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Mary C. Paldino and Robert J. Ginisi, 178 Orient Street, Worcester, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Residence B-2 District, to allow the construction of an addition 28 ft. from the rear lot line upon property located at 10 Wendell Street. The subject premises is described on the Shrewsbury Assessor's Tax Plate 39 as Plot 223-1.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. George opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on May 20, 2003 and May 27, 2003.

Mr. George: Please identify yourself for the audio record and make your presentation.

Mr. Ginisi: Robert Ginisi.

Ms. Paldino: Mary Paldino. When I submitted my house plans at first, the addition was on there. I don't know if there was some kind of a miscommunication, but we have already put the addition on. Ron Alarie is my building inspector. He happened to be inspecting the house next door for a final inspection. He noticed that it was being built and so it's been ceased. Nothing else has happened to it. It's been rough framed. There are no windows or doors or anything on it. So, we have just been waiting to find out what's going to happen next.

The reason why we tried to put the addition on is that, when we bought the lot of land, more than half of my property is wetlands. I'm trying to make the most of it. I have 5 children. We can't build the house that we wanted to build for this reason. So, we tried to go up as high as we could. We're even utilizing the attic as 2 bedrooms. Actually, the addition is my TV room. So, if I don't have the addition, then I don't have the TV room.

I don't know what else we could have possibly done just because the square footage isn't there. The house I wanted to build was a lot bigger and wider. It just doesn't fit on the property because we had to stay within the guidelines.

Mr. George: Did you know that you would have to get a building permit to do this?

Ms. Paldino: No.

Mr. Ginisi: This isn't an addition. This is part of the original house plans that we submitted. It's a sunroom without a foundation underneath it.

Mr. George: When were these plans submitted?

Mr. Alarie: The application, Mr. George, came in in December of last year. Maybe I can clarify some of it. None of the plot plans we received, either the proposed or the as-built plot plan, showed any extension there. The first floor plan doesn't show the extension on the back. There are a couple of elevations that show that. I think there is a foundation plan that shows some footings. There was definitely a miscommunication in terms of what we thought we reviewed and what was being built. As Mary said, I was doing the final

inspection on the house next door at the time that was being framed. I knew that, since they had been before the board, or the previous owner had been before the board, to seek relief because of the narrowness of the lot, that that structure could not possibly comply. So, we addressed it immediately and they stopped further construction on that part of the structure.

Mr. George: Aren't these lots the lots that were debated when they were subdivided because of the wetlands?

Mr. Alarie: They were subdivided and then the first lot, the upper lot, I think it is 6 Wendell, came before the board.

Mr. George: That was first.

Mr. Alarie: They sought the relief necessary to site the house. The board granted them relief to provide for a 15 ft. front yard setback. Subsequent to that, they came back for the second lot. In addition to the zoning relief, they had a few hearings before the Conservation Commission because of the encroachment of the wetlands onto that property.

Ms. Murphy: This existing lot already has a variance on it? What's the variance for that?

Mr. Alarie: If you look at the plot plan or the tax map, what's identified as 223 and 223-1, that was all one property. That structure that shows on the tax map was an old garage, or a foundation for a garage. That was on there, but was removed. A gentleman came in and he subdivided the property into the 2 lots. There's a house on 223 that has either a 15 ft. or 18 ft. front yard setback. The board granted him relief to permit a 15 ft. front yard. As I say, subsequent to that, he came back in and received a variance for lot 223-1. Ms. Paldino purchased that property and commenced building her house on it.

Ms. Murphy: What's the variance for it?

Mr. Alarie: Again, it was identical to the first one, a 15 ft. front yard setback.

Ms. Murphy: So, she's already got a variance for a 15 ft. front yard setback?

Mr. Alarie: Correct.

Ms. Murphy: And, then they are looking for a 12 ft. variance for the rear yard setback in addition to that?

Mr. Alarie: You can see that the depth of the lot is 85 ft. With the requirement of a 30 ft. front yard and 40 ft. at the rear for that district, that leaves only a 15 ft.

envelope for any construction. I would only point out, also, that the lot to the rear, lot 222, is a town owned piece of property.

Mr. George: Do you have any sketches or diagrams that we could view?

Ms. Paldino: Yes. To the left of my own property are the wetlands. The rear belongs to the town. We've already looked into that and no one can build on it. Just to let you know.

Mr. Gordon: Didn't we have this discussion with Mr. Revelli specifically about this problem?

Mr. George: Yes.

Ms. Paldino showed the plans to the board members and discussed them individually.

Ms. Paldino: That's the plot plan that they had submitted and then we did one that I had asked for because the architect needed it.

Mr. George: Who submitted that?

Ms. Paldino: I did. The architect that did this could not do it because it was a different size house. So, I resubmitted new plans with this on it with the sunroom, all of this.

Mr. George: Before the house was built?

Ms. Paldino: Right. It was approved. That's why I didn't know why we couldn't have that until Ron had stopped us and I didn't realize that the rear was supposed to be 40 ft.

Mr. George: Just let me pass this around for everyone to see.

Ms. Paldino: Okay.

Mr. Gordon: Was Mr. Revelli involved in this transaction?

Ms. Paldino: Mr. Revelli did everything in the beginning. I wasn't any part of it. I purchased the property from him. I didn't know until I talked with Ron after that that there was a variance on this property. I had no idea that it already had a variance.

Mr. Gordon: How is this then as a relation policy?

Mr. Salerno: Well, he sold it 2 years ago as a lot. He didn't have it under construction.

Mr. Ginisi: Right, it was just a lot. That's all it was. We weren't aware of all of that. We were told that we couldn't change anything on the foundation. That was it. So, that's why we ended up with putting on a 3-season room without a foundation and without heat and, you know, we submitted the plans. So, it didn't show anything on the actual plot plans.

Mr. George: Is that the room that you're doing?

Mr. Ginisi: Right, that's the room that we stopped right now. It doesn't show a foundation. There is no foundation under it.

Mr. Gordon: Ron, if someone applies for a building permit, are they required to submit an entire plan or just a plot plan for the footprint of the property?

Mr. Alarie: No, the process includes the application, the plot plan and a full set of building plans. I believe that there were several different types of plans that came in initially.

Mr. Ginisi: Right.

Mr. Alarie: The house changed because they plot plan that they got from Mr. Revelli showed a different size house than what they were intending to put on. That got revised and, if I remember, there were either 3 or 4 submittals that came into the office.

Mr. George: Is there anybody in attendance this evening that wants to comment on this petition?

Mr. Gordon: I have just one more question. What would be the affect of the sunroom coming off of the easterly side of the house instead of the southerly side?

Mr. Ginisi: We have it on that side because that's off of our kitchen area. The garage is on the other side, underneath.

Mr. Gordon: No, the easterly side would be that same side, but tucked in.

Mr. Alarie: That's the side where, I think, the edge of the wetlands are probably 6 to 10 ft. maximum from that side of the house.

Mr. George: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On June 4, 2003, the Shrewsbury Zoning Board of Appeals voted four in favor of and one opposed to the granting of the appeal of Mary C. Paldino and Robert J. Ginisi, 178 Orient Street, Worcester, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Residence B-2 District, to allow the construction of an addition 28 ft. from the rear lot line upon property located at 10 Wendell Street.

An appeal seeking relief from the dimensional provisions of Tale II of the Zoning Bylaw to permit the construction of the a single family home upon the subject premises was originally presented to the board on August 13, 2002 by its previous owner. At that time, relief from the minimum front yard setback requirement was issued primarily due to shape of this lot which is only 85 ft. in depth. That decision also notes that there is a significantly amount of wetlands encumbering the property that severely limits its buildable area. The appellants, who recently purchased the site and are presently building their home thereon, now seek relief from the minimum rear yard requirement to permit the continued construction of a family room that projects 12 ft. out from the rear of the structure.

The majority of the board found that, due to the conditions cited above, which prompted the granting of the initial relief, the literal application of the minimum setback require-ments to this property severely limits, if not prohibits, its development and use for single family residential purposes. They also noted that the abutting land to the rear of house, directly opposite the proposed extension, is town-owned and it was felt that the reduction of the rear yard setback with such an arrangement would not seriously derogate from the intent of the bylaw or adversely impact the welfare of the general public. They, therefore, unanimously voted to grant the appeal as presented to the board.

One member of the board was of the opinion that, since considerable relief was given to permit the placement the dwelling currently under construction upon this parcel, the granting of an additional variance that would increase the footprint of this structure would excessively derogate from both the intent and the purpose of the bylaw in requiring such minimum setbacks. She found that the granting of the relief requested would conflict with the statutory requirements set forth in Chapter 40A, Section 10, and, therefore, voted to deny the appeal.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	No
Mr. Rosen	Yes

PUBLIC HEARING: Gold Ridge Development, LLC, 118 Memorial Drive,
Shrewsbury, MA.

PURPOSE: To hear the appeal of Gold Ridge Development, LLC, 292 Main Street, Northboro, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front Yard Requirement, Rural B District, to allow the construction of a single family dwelling 48 ft. from the sideline of Memorial Drive upon property located at 118 Memorial Drive. The subject premises is described on the Shrewsbury Assessor's Tax Plate 47 as Plot 108.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. George opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on May 20, 2003 and May 27, 2003.

Mr. Hanna: Good evening, my name is Jonathan Hanna. I'm with Gold Ridge Development. This is my partner, Timmy Shea. This is Dave Sadowsky from Seltech Engineering.

To give you a quick history on this, on January 7th a building permit was issued for 118 Memorial Drive to construct a 28 ft. x 60 ft. Colonial. In mid January, we started to excavate for the foundation and had the hole ready to pour the footings. We had Seltech come out and stake the 4 corners because we knew we had a tight situation there. Unfortunately, due to the weather, we had to abandon the project for the winter. We put frost blankets down over everything to protect it. Every time we had someone scheduled to come in, it just didn't work out as we got another snow storm. Subsequently, we were not able to do anything until the springtime, at which point we decided to build at 114 Memorial Drive which is right next door. Once we got going there and the weather did break for us, we decided to get back to 118 and get started.

In the beginning of the spring, we hired a contractor to come in and pour the footing not knowing that, apparently when the frost blankets were removed, somebody must have pulled the stakes as well. There were offsets at the site. The contractor pulled his measurements off of the offset stakes. Apparently it was off by a foot or 2. We were not aware of that until a little too late and that we were in violation of the front setback. Actually, the side setback was the front setback. That's actually misstated on the application. We're looking for relief on the front setback. It's about 2 ft.

Mr. Alarie: No, it's a front yard setback. It states that the setback is from the sideline of Memorial Drive, not the side lot line of the property.

Mr. Hanna: Oh, it's the sideline of the street. Okay. So, unfortunately, it did not come to our attention that we were in violation until we were well into the frame. I had called Seltech to come out and do a foundation as-built. We were under the impression then that that had been submitted to the town and everything was okay. I had the framer from 114 start on 118. As soon as we knew that we had a problem with the setback, we brought it to Ron's attention. Ron, at that point, asked us to stop the project and here we are.

Mr. George: How did you find the problem with the setback?

Mr. Hanna: When we had the as-built from the engineer.

Mr. George: How far along are you with the project?

Mr. Hanna: Well, it's rough framed.

Mr. George: Do any board members have any questions?

Ms. Murphy: So, a 2 foot variance is what you're looking for?

Mr. Hanna: Yes.

Mr. Sadowsky: If I may, Mr. Chairman, my name is Dave Sadowsky. I'm one of the principals of Seltech Engineering. This piece of property had about 18 or 19 acres. Eventually, 6 house lots were cut out of it. There was no problem with the other 5 house lots. It's an 80 ft. layout along Memorial Drive instead of 60 ft. There is a steep slope that goes down there. So, a lot of work had to be done to it. The front yard setback in that area is 50 ft. We had gone out again after the blankets were put down and re-staked the stakes that were driven in those blankets. So, when the contractor or whoever did pull those blankets off, there was nothing left there. Because of the 80 ft. taking and only 40 ft. of pavement, there is an extra 20 ft. on the sidelines and then 50 ft. down. The slope goes like this. So, even if you pulled your tape down that slope, 50 ft. on the tape would only, realistically, be 48 if you came straight out and you were able to project straight down. So, I think that, when the contractor went to go check, because we have some front points out, he pulled on that side slope instead of coming straight out horizontally and coming down. I think that may have lead to his problem and thinking that everything was okay when he started the hole and started the footings. We weren't called in to pin on the footings. We were called after the foundation was in and construction was going along.

Basically, when everything broke this spring, it was very busy. It was about a week after we got the call that we finally got out and certified the foundation. Then it took about 2 or 3 days in the office before the foundation was actually put

in the computer. That's when we notified them to stop right away. Furthermore, this will be last lot that's being built upon in that stretch there.

Ms. Murphy: Do you have the footings in there now?

Mr. Sadowsky: No, they have the foundation walls. They have rough framed all of the way up. They were working the lots side-by-side and saving on materials.

Mr. George: Do any other board members have any questions? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On June 4, 2003, the Shrewsbury Zoning Board of Appeals unanimously voted to deny the appeal of Gold Ridge Development, LLC, 292 Main Street, Northboro, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front Yard Requirement, Rural B District, to allow the construction of a single family dwelling 48 ft. from the sideline of Memorial Drive upon property located at 118 Memorial Drive.

The appellant has commenced the construction of a single family home upon the subject premises and has found that the foundation for this structure was placed approximately 2 ft. within the minimum front yard setback line required at this location. It was the board's opinion that, in this instance, the hardship presented was self-created and is not due to the literal enforcement of the applicable terms of the Zoning Bylaw. They found that the granting of the relief requested under such circumstances would violate the intent of the bylaw as well as the statutory prerequisites for the issuance of a variance and, therefore, unanimously voted to deny the appeal.

Vote

Mr. Salerno	No
Mr. George	No
Mr. Gordon	No
Ms. Murphy	No
Mr. Rosen	No

PUBLIC HEARING: Brian Fleming, 15 Huntington Road, Shrewsbury, MA.

PURPOSE: To hear the appeal of Brian Fleming, 15 Huntington Road, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Residence B-2 District, to allow the construction of an addition 5.5

ft. from the side lot line of property located at 15 Huntington Road. The subject premises is described on the Shrewsbury Assessor's Tax Plate 57 as Plot 143.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. George opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on May 20, 2003 and May 27, 2003.

Mr. George: Please state your name for the record.

Mr. Fleming: Brian Fleming. I live at 15 Huntington Road. What I'm proposing is to add a garage on the front of my house. The house is already 5.5 ft. from the property line. So, I do not wish to go any closer than that. I just want to come out a little further. I might add that there is already a 6 ft. shed that has been grafted onto the front of the house without a foundation. We wish to take that off and then add an 18 ft. long garage. We're really only going 12 ft. farther than where we already are if you include the 6 ft. shed that's already there.

Mr. George: You're proposing an addition for a garage where the shed is?

Mr. Fleming: Yes, the shed is attached to the house. If I remove that, I'll save 6 ft. and put on an 18 ft. long garage. Like I said, we're not going to go any closer than what the house already is. It's on the lake so they are very small lots. There are a couple of cottages next to me that my neighbor owns.

Mr. Alarie: Technically, Mr. Chairman, he is getting closer. If you can see by the plot plan that he submitted, this doesn't show the shed, but the existing corner of the house is 5.8 ft. from the lot line. It shows that the proposed garage would be 5.6 ft. away. So, you are technically getting .2 ft. closer.

Ms. Murphy: What does this do to the other side?

Mr. Alarie: Excuse me?

Ms. Murphy: The other side lot line? It doesn't look like there's an awful lot of space there.

Mr. Fleming: On the other side, we have about 13 ft.

Mr. Alarie: I'm not sure as to which side you are referring to.

Ms. Murphy: Right here, on this side.

Mr. Alarie: Oh, the other addition?

Mr. Rosen: The one over here on this side of the lot.

Mr. Fleming: There are 2 additions.

Mr. Alarie: There is plenty room there. You only need 10 ft. there. There is plenty of distance on that side.

Mr. Gordon: Ron, is this one of the houses that was part of that condominium project? When I first moved to town, there were a bunch of cottages where the land was all in common ownership.

Mr. Alarie: I don't believe so, Mr. Gordon. I could be mistaken, but I think this lot has been an individual lot. A lot of these lots had multiple houses on them. I'm not sure if this was one of them.

Mr. Fleming: Yes, I actually bought 2 pieces of property and I had the deeds combined. We took a cottage down about 5 years ago.

Mr. Alarie: Yes, that's how I recall it.

Mr. Gordon: Your front door, then, will be your garage?

Mr. Fleming: We're also doing another addition off of the side of the house. It will be a family room which will be the front door. That didn't require a variance.

Mr. Gordon: That goes down towards the lake? There's a slope to your land, right?

Mr. Fleming: Yes, on that side, it will be down. I'm dealing with Conservation right now on that. My neighbor has no problems with it. He plans on doing something similar in a couple of years.

Mr. Gordon: So, he's looking for a precedent?

Mr. Fleming: Well, he's got a couple of old cottages there himself. He plans on hopefully taking them down and actually putting a new house in place of them.

Mr. George: Is this going to be on a foundation?

Mr. Fleming: Yes, it's also going to have a room above the garage.

Mr. Rosen: Mr. Fleming, do you have any drawings?

Mr. Fleming: Yes, I do. A drawing for the addition itself or just a plot plan? No, I didn't bring them. I didn't know that I needed them. I mean the plot plan shows how it fits on the drawing of the actual addition.

Mr. George: Do you have any sketches or anything about what you propose to build?

Mr. Fleming: Well, I've just got the site plan. I think I have a copy. No, I didn't bring them. I didn't know you needed them.

Mr. George: When we're going to vote on something, we really like to see what we're going to be voting on.

Mr. Fleming: Well, I can be back with them in 5 minutes if you want me to go get them. Do you have a copy of it, Ron?

Mr. Alarie: Have you submitted any plans to us as of yet for a building permit? I think you've been working your way through the Conservation Commission.

Mr. Fleming: I thought I gave some to the secretary when I put in the application for the permit. I'm not positive.

Mr. Salerno: We'll check on that.

Mr. Gordon: I move we continue this until 8:30.

Mr. Salerno: He's checking.

Mr. Gordon: If he doesn't have it, he can run home and get them and then we can see what he's doing.

Mr. Fleming: Right.

Mr. Alarie presented the plans to the board.

Mr. Alarie: This sheet shows the front elevation.

Mr. George: Ron, there's no problem with the front yard, right?

Mr. Alarie: No, the front yard is in compliance. It's just that easterly side yard setback.

Mr. Rosen: That other side is okay.

Mr. George: This road is what, a 20 rod road?

Mr. Alarie: I think it's much less than that. It wouldn't be that. I think it's probably only a 24 to 26 ft. layout.

Mr. George: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On June 4, 2003, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Brian Fleming, 15 Huntington Road, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Residence B-2 District, to allow the construction of an addition 5.5 ft. from the side lot line of property located at 15 Huntington Road.

The subject property is nonconforming in several regards, most noticeably its frontage and area, as it has only 33 ft. of frontage along Huntington Road and contains just 6,972 sq. ft. of land. The existing dwelling sits between 5 ft. and 6 ft. from its easterly side lot line. The appellant proposes to construct 2 additions to his home, one located to the westerly side of the structure that complies with all applicable setbacks. The second one will extend the front of the house 22 ft. towards the street and will reduce the existing side yard setback by less than 6 in.

It was the board's opinion that, due to size and configuration of Mr. Fleming's property, the literal application of the minimum provisions of the Zoning Bylaw to this lot would significantly impact his ability to expand his home. They found that the aforementioned reduction of the existing setback would only marginally change the configuration of this lot and that the construction of this addition would not adversely affect the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes

PUBLIC HEARING: Sentry West Lincoln Mercury, Inc., 940 Boston Tpke.,
Shrewsbury, MA.

PURPOSE: To hear the appeal of Sentry West Lincoln Mercury, Inc., 940 Boston Tpke., Shrewsbury, MA, to amend the special permit granted in accordance with Section VI, Table I, of the Town of Shrewsbury Zoning Bylaw, relative to the days and hours of operation for the sale and repair of motor vehicles upon property located at 940 Boston Tpke. The subject premises is described on the Shrewsbury Assessor's Tax Plate 36 as Plots 26 and 27.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. George opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on May 20, 2003 and May 27, 2003.

Atty. Byrne: Good evening Mr. Chairman and members of the board. For the record, my name is Kevin Byrne. I'm an attorney. My office is in Worcester and I live here in Shrewsbury. Let me introduce you to the new folks who are now at 940 Boston Turnpike running the Lincoln Mercury dealership down there. The new entity is known as Sentry West. To my very far right, is Anthony Capone who is the vice president and controller. To my immediate right, is Patricia Wyatt who is the secretary and treasurer of the corporation.

Some of you may recall that, back in the year 2000, we went through the entire permitting process with the Lincoln Mercury dealership at the 940 Boston Turnpike location. We started out with Mr. Gordon's Planning Board, went through a site plan review process with that, went to the Board of Selectmen for licensing and permitting and then came before this board. We came before this board in October of 2000 looking for a special permit because, even though what we were doing was appropriate in a Commercial Business zone, we were required to have a special permit from you folks. At that time, you granted the special permits with conditions. The conditions were in complete accord with what the Board of Selectmen had done and what the Planning Board had done. The last time we went to the Planning Board, there was no discussion about hours of operation with the Planning Board or in their decision. We went to the Board of Selectmen and, in effect, asked for specific hours of operation which I've set forth in the application itself. What we had asked for and what the Board of Selectmen granted and you folks also granted was that the hours of operation would be Monday through Friday from 9:00 A.M. to 9:00 P.M. and Saturday from 9:00 A.M. to 6:00 P.M. for the sale of motor vehicles. The servicing part of it would occur Mondays through Fridays from 8:00 A.M. to 6:00 P.M. and on Saturdays from 8:00 A.M. to 3:00 P.M.

The new folks who have come in basically wanted a slight variation on that and they wanted some Sunday hours. The reason there were no Sunday hours granted before by the Board of Selectmen or this board is that they were never

asked for. Specifically, in the minutes of the September 2000 meeting, Ms. Deering asked "Are there Sunday hours?" and our answer at that point was "They haven't decided yet. If the other businesses are open, then they may consider that. My guess is, starting off, they won't be open on Sundays." That's apparently what happened back in 2000.

What they're looking for now, consistent with a license that was granted by the Board of Selectmen on May 12th of this year granting these folks a garage license and Class I License for the sale of new and used cars, is for the sales and repair Monday through Friday from 7:00 A.M. to 8:00 P.M., rather than the 9 to 9, Saturdays from 7:00 A.M. to 5:00 P.M., rather than the 8 to 6, and to be permitted to do repairs in that same time frame and to do sales only from noon to 5:00 P.M. on Sundays. So, we're looking for a slight modification on the hours of operation on Monday through Saturday and an addition of the 12 to 5 on Sundays, which is consistent with all of the car dealerships from Worcester on east to Framingham which, we gather, is consistent with the other commercial businesses that are in effect in that particular area. We've got the licenses from the Board of Selectmen, subject to our coming and, hopefully, tuning it up with you folks. All of the other conditions of the October 2000 decision that this board states, obviously, will remain in effect also.

Mr. George: You're just looking for operational times?

Atty. Byrne: That's all, yes.

Mr. George: Are there any questions from the board?

Mr. Gordon: Why didn't they ask for it before?

Atty. Byrne: As I said, they didn't know that they wanted it at that point. My guess is that, starting off, they wanted to wait and look around to see if other businesses were open and that is the only answer. Candidly, it never became an issue before the Planning Board and, when we went before the Board of Selectmen for the garage license and the rest of it, this is what they asked for. We set the times there and then came before the ZBA and said that they were to be consistent with what the selectmen did.

Mr. Gordon: The other car businesses that are right there are open on Sundays, are they not?

Atty. Byrne: In that time?

Mr. Gordon: I don't think Fiore is, but Foley is and Performance Cycle is.

Atty. Byrne: As is Ragsdale and the one down at what used to be my favorite motel.

Mr. Gordon: The Subaru dealership.

Mr. George: It helps people who want to have their car serviced to drop them off at an earlier time. It's more convenient than the 9:00 starting time.

Atty. Byrne: That's exactly what it is.

Mr. Gordon: There's not going to be any service on Sundays?

Atty. Byrne: No.

Mr. Gordon: Just sales?

Atty. Byrne: Just sales.

Mr. Gordon: Did you say, 11:00 A.M. to 5:00 P.M.?

Atty. Byrne: No, they would be noon to five.

Mr. Gordon: And the hours that you'll be open are, instead of 9 to 9, 7 to 8 and, instead of 9 to 6, 7 to 5?

Atty. Byrne: Right.

Mr. Gordon: And, service will be what?

Atty. Byrne: In that same time frame.

Mr. Gordon: The same hours?

Atty. Byrne: Right.

Mr. Gordon: No outside speakers?

Atty. Byrne: No.

Ms. Wyatt: No.

Mr. Capone: No, sir.

Atty. Byrne: Why did I think that was going to be a question?

Mr. Gordon: Because one of my board members was adamant about no outside speakers.

Mr. George: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On June 4, 2003, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Sentry West Lincoln Mercury, Inc., 940 Boston Tpke., Shrewsbury, MA, to amend the special permit granted in accordance with Section VI, Table I, of the Town of Shrewsbury Zoning Bylaw, relative to the days and hours of operation for the sale and repair of motor vehicles upon property located at 940 Boston Tpke.

On September 27, 2000, the board issued a special permit which allowed the development of the subject site for the display, sale and servicing of new and used motor vehicles. That permit set forth several stipulations regulating the development of the property and the operation of the dealership, one of which limits the times of the day and days of the week the aforementioned activities are permitted to be conducted thereon. The appellant, who has recently acquired its ownership, seeks a change to that restriction.

In considering this request, the board reviewed the operation of the dealership during the past 2 years and the changes that have occurred along this vicinity of the Route 9 corridor during that period and found that the changes proposed would not materially alter the manner in which business is conducted upon the premises. It was their opinion that the revised business hours and days would be comparable to those of other businesses within the immediate area, particularly of those of other automotive dealerships, and that they would not create any condition which would be harmful or injurious to the welfare of the general public. It was, therefore, unanimously voted to grant the appeal as presented to the board subject to the following conditions:

1. The sale and servicing of motor vehicles upon the subject premises shall be permitted only during those hours between 7:00 A.M. to 8:00 P.M., Monday through Friday, and between 7:00 A.M. and 5:00 P.M. on Saturdays. The sale of motor vehicles shall be permitted between noon to 5:00 P.M. on Sundays. There shall be no servicing of vehicles on Sundays.
2. All other stipulations and conditions set forth in board's decision of the September 27, 2000 shall remain in full force and effect.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes

Ms. Murphy	Yes
Mr. Rosen	Yes

PUBLIC HEARING: Michael D. Harrington Development, Inc., 93 Oak Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Michael D. Harrington Development, Inc., 358 Grafton Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Residence B-1 District, to permit a 5 ft. side yard setback upon property located at 93 Oak Street. The subject premises is described on the Shrewsbury Assessor's Tax Plate 33 as Plot 49.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. George opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on May 20, 2003 and May 27, 2003.

Atty. Byrne: Mr. Chairman, with your permission, these are legible copies of the smaller versions that were attached to the application that was submitted to you.

Mr. Chairman and members of the board, again, for your record, my name is Kevin Byrne. I'm an attorney. I represent Mike Harrington who lives on Grafton Street. The last time we were before you he lived on Farmington Drive and now he lives on Grafton Street with his wife and family. I think Mike is familiar to all of you. Mike has been a resident here in this community for a substantial number of years and has been a builder of, I respectfully suggest, of some repute in this community and in others.

If you would permit me, Mr. Chairman, this is a little bit of double teaming. This hearing, which is Mike's hearing, Michael Harrington's Development hearing, in which he is looking for a variance with reference to the property at 93 Oak Street, is tied in awfully closely with the hearing scheduled for 8:15 with my brother, Bob Casey, who is representing Eleanor and Doryce Moosey who are the present owners of the 93 Oak Street property. They intend, if this passes and is appropriate, to request variances for the 104 Oak Street property, which is across the street. I hope it is appropriate with you folks that we kind of merge these together because, quite frankly, if one doesn't fly, the other one doesn't fly. They are kind of tied together. With your permission, I would like to put it in some kind of perspective.

The property at 93 Oak Street, which is the subject of Mr. Harrington's variance, is owned by Eleanor and Doryce Moosey, who are here. Could you just raise

your hands so they know where you are? Living there with Eleanor and Doryce are their 3 aunts. Correct? Have I got them all? They're all aunts. Evelyn is with us. Evelyn tells me tonight that she's the youngest of the 3. The other 2 are Theresa Adams and Sadie Adams. All 5 of them live at the 93 Oak Street property. It is their desire and wish that they sell the 93 Oak Street property, which is a fairly large property, to Mr. Harrington who has a plan to subdivide that land so that the existing house on 93 Oak Street is there together with 3 lots which are in total compliance with the Zoning Bylaw. They are ANR, Approval Not Required, lots that require nothing other than an appropriate plan that will be submitted, ultimately, to the town engineer, Jack Perreault, and it will be appropriately granted.

They then intend to move across the street to a property that they own at 104 Oak Street that's presently a 2-family house. What they want to do is to add onto that property, and Bob will explain it to you in, obviously, much more detail later. They want to add onto that property so that they can all move across the street so that the 5 family members and their caregivers that are with them will have a more appropriate home and residence to live in.

With reference to the 93 Oak Street property, the original plan that was considered by Mike Harrington and by Mr. Casey on behalf of his clients was, basically, a larger subdivision. They were literally going to put a street in there. It started out with 9 or 10 house lots being a possibility. This is in a B-1 District which means the lot requirements are 12,500 sq. ft. Nobody was really thrilled with that idea. Then it went down to 5 or 6 and then, ultimately, it came down to what the Mooseys felt, and what Mike felt, is more in keeping with that neighborhood, which was basically the 3 additional house lots. One is 1.5 acres, the other one is almost 2 acres and the third one is about an acre and a quarter and then the house itself, which would sit on an 18,000 sq. ft. lot. There is presently located on the property, in addition to the house, an entirely separate garage and another outbuilding, a storage building of some sort. These will be, obviously, removed and taken down.

The issue that we have and the variance that we need is, in a sense, somewhat minimal. In order to do the appropriate frontage for these back lots, which are, again, in compliance with the bylaw itself, we come within 5 ft. of the property line. The side yard requirement is a 10 ft. side yard requirement. So, basically, we're seeking from this board just this one minimal variance which is, basically, to permit us to be able to subdivide this land, or to divide this land, so that there is a 5 ft. side yard setback rather than the 10 ft. As I suggested to you, in all other aspects, the plan complies appropriately with our bylaw.

Mr. Harrington: We could give a landscape easement on the other lot to make it look like there's 10 ft. there so that it would certainly look like it was in compliance. We would be willing to do that also.

Atty. Byrne: There is now way, because of the construction of this very, very solid brick house, that we can do anything with the existing house. It's a garage, but it's an integral part of the house itself. So, from a structural point of view, it can't be removed as such.

You'll hear much more about what the Mooseys want to do across the street, which again, requires some bylaw variances. That's where we are.

Mr. George: Do any board members have any questions?

Mr. Gordon: Mike, you say that this is a better fit than a subdivision and, for a subdivision, that will require no waivers or variances. You can still get 3 to 4 houses. It will just cost you more money for the road and you're just creating the hardship. Why should we let you create a hardship when you can subdivide this and do the same thing?

Atty. Byrne: We can't because of wetlands.

Mr. Gordon: Where are the wetlands?

Atty. Byrne: The wetlands are back over in this area here. I don't know if these are marked, but there is a very large area.

Mr. Harrington: Once the wetlands were all marked after the engineers came out, we tried to meet the subdivision control laws on the grades and it wouldn't work.

Ms. Murphy: So, at best, you would be able to then divide it into 2 lots. Is that what you're saying?

Mr. Harrington: Three.

Ms. Murphy: Three?

Atty. Byrne: The best we can do is 3 plus the existing house.

Ms. Murphy: No, absent the variance?

Atty. Byrne: Well, yes. I would expect that, yes.

Mr. Harrington: Which, at that point, it couldn't be done.

Atty. Byrne: Which, at that point from a purchase and sale point of view in terms of what the Mooseys need to do across the street in terms of the price, it becomes not feasible.

Mr. Salerno: If it's allowed, they sell 4 pieces of property to do whatever they've got to do across the street?

Atty. Byrne: Yes.

Mr. Gordon: Aren't they selling 1?

Atty. Byrne: Well, we'll sell 1 parcel.

Atty. Casey: We'll sell 1 parcel that will end up being 4 pieces.

Atty. Byrne: Right.

Mr. Salerno: Or, they do this plan and then sell 4 pieces.

Atty. Byrne: Right.

Atty. Casey: Well, if they do this plan, the Mooseys and Adams, the current owners of 93 Oak Street, will have a major renovation in the half million dollar range for renovating the property at 104 Oak St.

Mr. Gordon: So, these frontages that are what, 50 ft. frontages with 3 times the land?

Atty. Byrne: Yes, three times the minimum required. Yes. And I think you can see more appropriately the traditional mathematics of the circle and that's what brings us within the 5 ft. edge of the garage.

Mr. George: Do any board members have any questions? Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On June 4, 2003, the Shrewsbury Zoning Board of Appeals voted one in favor of and four opposed to the granting of the appeal of Michael D. Harrington Development, Inc., 358 Grafton Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Residence B-1 District, to permit a 5 ft. side yard setback upon property located at 93 Oak Street.

The appellant proposes to purchase the subject premises and to then subdivide it into

4 lots, one of which containing the existing single family home. The remaining 3 lots are configured utilizing the rear lot requirements set forth in Section VI,

Subsection B-7, of the Zoning Bylaw. A variance to the minimum side yard setback requirement is necessary to facilitate this proposal as one of the new side lot lines would be located within 5 ft. of the garage attached to the northerly side of the existing residence.

The majority of the board found that there were no conditions affecting this site relating to its physical properties that would warrant the granting of the relief requested. They found that any hardship involved in this matter relates to the appellant's attempt to create as many buildable lots as possible and reasoned that the granting of the variance in such an instance would substantially derogate from the intent and purpose of providing for such minimal dimensional controls within the bylaw. They, therefore, voted to deny the appeal.

One member of the board noted that this site is a relatively large tract of land and found that, except for its severe topography and the extensive wetlands situated thereon, it could be subdivided into many more buildable lots. It was his opinion that the appellant's proposal was more in keeping with the intent of the bylaw in providing for the concept of rear lots, that the proposed lot layout was more compatible with the general character of the neighborhood and that the reduction of the side yard setback would be virtually undetectable. He, therefore, voted to grant the variance.

Vote

Mr. Salerno	Yes
Mr. George	No
Mr. Gordon	No
Ms. Murphy	No
Mr. Rosen	No

PUBLIC HEARING: Eleanor R. Moosey and Doryce M. Moosey, Trustees, 104 Oak Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Eleanor R. Moosey and Doryce M. Moosey, Trustees of 104 Oak Street Realty Trust, 93 Oak Street, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, and for a variance to Section VII, Table II, Maximum Lot Coverage Percent, to allow the expansion and modification of the two-family dwelling situated upon property located at 104 Oak Street and to permit such expansion and modification maintaining its existing side yard setback and covering approximately 18% of said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 33 as Plot 41-1.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. George opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on May 20, 2003 and May 27, 2003.

Mr. George: State your name for the record please.

Atty. Casey: My name is Robert Casey. I'm an attorney in Worcester. I grew up here in Shrewsbury. I represent the current owners of 93 and the current owners of 104 Oak Street, the trust. We only have one set of plans and I'll give you that. These are the drawings that show what they propose to build.

Atty. Byrne: Mr. Chairman and members of the board, those are Mike's engineer's drawing of the architecture and of the interior part of the building.

Atty. Casey: I believe that's part of what was filed. I'm missing a hand drawn sketch.

Mr. George: We have it.

Atty. Casey: Okay. I can refer to that.

Mr. Salerno: Basically, are you putting 2 houses together?

Atty. Casey: You might look at it that way. There's a current house with a garage, which shows on the front part. If you're looking on the sketch in front of you, from Oak Street, that existing house and the front garage would stay the same. What's going to be added is the additional building and garage to the rear.

Mr. Salerno: So, you've got the house with a 2-car garage, attaching to that at 2-car garage and then another house? Is that correct?

Atty. Casey: Correct.

Mr. Salerno: So, we have a 4-car garage between the 2 homes?

Mr. Harrington: That's correct.

Mr. Salerno: Right.

Mr. Harrington: Yes. What they had done is that, at one time, the front house was on 1 lot and then they bought an additional lot behind it. That's where they're proposing to add this one. The lots are combined now.

Mr. Gordon: As one?

Mr. Harrington: Yes.

Mr. Gordon: So, this will be a duplex?

Mr. Harrington: Yes, it's a duplex now.

Mr. Gordon: But, it will remain a duplex?

Mr. Harrington: That is the intention.

Mr. Gordon: It won't be a 4-family house?

Mr. Harrington: No, no. The intention is for it to remain a duplex as it was. Their hope is that they want the aunts and their caregivers in one side of it and Doryce and Eleanor want to live in the other side. Right now, in the house they're in, neither party really has any privacy. They're just all together. They can't go upstairs because they're all in wheelchairs. The intention of this is to make it all handicapped accessible and let them live a nice life.

Atty. Casey: This will give then some privacy. In the front part, what's existing will end up, I believe, with 3 bedrooms with one for each of the aunts and 2 other bedrooms for the caregivers who need to be there quite often on a 24 hour basis. One of the things that we need is that the current zoning requires a 30 ft. sideline and, currently, it's only 20 ft. This property has gone back and forth from being conforming and nonconforming. Maybe Mr. Alarie can explain it a little bit better. When it was first built, it was conforming. Then, through several changes, it has been conforming and nonconforming and conforming.

If we do this proposal to add onto the existing structure, making a duplex into a duplex, then we would need a variance for both sidelines. Both the northerly and southerly sidelines are 20 ft. away where B-1 zoning would require 30 ft.

The other part deals with the maximum percentage of the lot. This would cover approximately 18 % of the square footage of the lot where current zoning bylaws require a maximum of 10 %.

Mr. George: What is the total life of this project, the length of time that it will take you to complete this project that you're doing?

Atty. Casey: Are you talking about the 93 Oak Street permit or just the 104 Oak Street?

Mr. George: The total project together.

Atty. Casey: Well, I have to differ to Mr. Harrington.

Mr. George: Of the addition that you're putting on, what would be the total length of the project?

Atty. Byrne: Just for the addition?

Mr. Harrington: You're looking for the time frame?

Mr. George: No, I'm look at size of the structure.

Mr. Harrington: You're looking at length? Okay.

Mr. Salerno: This, I think, is what they want to know. What is the distance from here to there?

Mr. Alarie: If the numbers are correct on the plot plan, it's about 71 ft. It's 42 ft. plus 5 ft., I believe, for the house and then 24 ft. for the garage.

Mr. George: That's for the addition?

Mr. Alarie: For the addition.

Mr. Salerno: So, what is the total length of the combined site now?

Mr. Harrington: I think it's 120 ft.

Mr. Gordon: How many people in this group drive?

Mr. Harrington: Two, but then there are the caregivers that come and go. Some stay 24 hours a day.

Mr. George: Do any board members have any questions?

Mr. Gordon: Why couldn't this be an, it wouldn't make any difference, in-law apartment?

Atty. Byrne: We thought about that and, for some reason, discounted it. I can't remember why we discounted it, Ron. Why would I have discounted it?

Mr. Alarie: I believe Mr. Harrington wanted to maintain the 2-family status. That is my recollection when I suggested that.

Mr. Gordon: Well, who's going to own this, the Mooseys or you?

Mr. Harrington: No, the Mooseys.

Atty. Casey: The Mooseys will. There will be no change in ownership.

Atty. Byrne: Michael is doing the construction.

Mr. Alarie: But, in terms of bringing that suggestion back to the owners, it was their feeling that they would want to maintain its existing nonconforming status.

Mr. Gordon: Its 2-family status?

Mr. Alarie: Yes.

Mr. George: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Ms. Eleanor Moosey: I'm Eleanor Moosey. I'm one of the owners. I just want to make it clear that I'm asking for this variance because the 3 aunts that we take care of are truly very handicapped. They are between 83 and 93 years of age and do require a lot more help and need handicapped entrances and exits, for bathing and things of that sort. So, we have to have 3 handicapped bedrooms. That one part, that duplex, in the front will be just for them and their caregivers. My sister and I will live in the second one and we want to be close by because we are responsible for their care. The reason for all of this change is because of their severe handicapped condition.

Mr. Salerno: What are your future plans, ma'am, for when these elderly aunts pass on?

Ms. Eleanor Moosey: Well, we haven't looked beyond that because we have been so busy with the responsibility of taking care of their present needs in a family and home situation rather than nursing home care.

Mr. Salerno: Well, would you be looking to merge it? Would this become rental property?

Ms. Eleanor Moosey: It would become regular property at one time. Yes, at one point in time, it could be rented.

Atty. Byrne: It has been.

Ms. Eleanor Moosey: Yes, it has.

Atty. Byrne: This has been rental property for a period of time. The Mooseys have owned this for a period of time and there were 2 different tenants living

there. So, basically, they want to maintain that right. The variance that they're requesting, ironically, already exists. The 20 ft. side yard that exists has been there for a period of time. It's obviously nonconforming. What they are obviously doing is they need the variance now because of the addition to it, to what already exists. So, I think the most substantial issue is the lot coverage and, obviously, the size of this place. But, we're basically still going to be back to a duplex. With respect to that, if you look upon this favorably, it could be one of the conditions that it would never be more than a "duplex" as such.

The Mooseys have also kind of gone around the neighborhood. So, we've got some folks here who are quiet, but they are quiet because they are, I think, satisfied with it. We're going from a duplex to a duplex. Presently it is a rental property at the moment and it won't be if they are allowed to go forward with their proposal. But, in the future, I suppose the worst case scenario would be, God forbid anything happens, that it would go back into the duplex part of it.

Mr. Harrington: On the side yard where these garages face, there is a 50 ft. right-of-way there for land out in back for a subdivision that probably will eventually be built there. I think that, at that point, it probably wouldn't be out of place.

Atty. Byrne: As you face the property at 104, to the right there is an easement or right-of-way.

Mr. Harrington: I think that land is owned by Spag's.

Atty. Byrne: Or, whoever that entity is at the moment.

Mr. George: Are there any other questions? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

The decision of the board is on the following page.

Decision

On June 4, 2003, the Shrewsbury Zoning Board of Appeals voted three in favor of and two opposed to the granting of the appeal of Eleanor R. Moosey and Doryce M. Moosey, Trustees of 104 Oak Street Realty Trust, 93 Oak Street, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, and for a variance to Section VII, Table II, Maximum Lot Coverage Percent, to allow the expansion and modification of the two-family dwelling situated upon property located at 104 Oak Street and to permit such expansion and modification maintaining its existing side yard setback and covering approximately 18% of said property.

The appellants own the two family dwelling situated upon the subject property, which is presently zoned "Residence B-1." It was constructed and occupied prior to the rezoning of this vicinity of Oak Street and it exists as a nonconforming use. They propose to construct a substantial addition to the rear of the structure to provide accessible living accommodations for five family members and their caregivers.

The majority of the board found that the granting of the special permit and the secondary dimensional relief requested to effect the Moosey's plans would not materially change the nonconforming character of the subject premises or create any condition which would adversely impact the welfare of area residents. It was their opinion that its change in occupancy from rental apartments to an owner occupied residence would be more compatible with this neighborhood and they, therefore, voted to grant the appeal as presented to the board.

Two members of the board found that the expansion of this structure, which would almost double both its gross floor living area and lot coverage, would overburden the property and significantly increase its nonconforming character. Furthermore, they felt that, with respect to the variances requested, there were no conditions affecting this site relating to its physical properties that would warrant the granting of this relief. They, therefore, voted to deny the appeal.

Vote

Mr. Salerno	No
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	No
Mr. Rosen	Yes